

SENATE BILL NO. 66

INTRODUCED BY J. BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING~~ PHASING IN A REQUIREMENT THAT SALARIES OF COUNTY ATTORNEYS MUST BE PAID BY THE STATE; PROVIDING THAT COUNTY ATTORNEYS' SALARIES MUST BE ~~95 PERCENT~~ A PERCENTAGE OF DISTRICT COURT JUDGES' SALARIES; ELIMINATING LONGEVITY INCREASES FOR COUNTY ATTORNEYS; REVISING THE METHOD FOR CHANGING FROM A PART-TIME TO A FULL-TIME COUNTY ATTORNEY; AMENDING SECTIONS 7-4-2502, 7-4-2503, 7-4-2504, ~~7-4-2505~~, 7-4-2706, AND 7-6-2426, AND ~~46-18-236~~, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2502, MCA, is amended to read:

"7-4-2502. Payment of salaries of county officials and assistants. (1) ~~The~~ Except as provided in subsection (2), the salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) (a) The salary of the county attorney is payable ~~one-half from the general fund of the county and, if the county has supplied the information to the department of justice for inclusion in its budget, the other one-half every 2 weeks from the state treasury upon the warrant of the state treasurer~~ AS PROVIDED IN 7-4-2503. ~~If the county has not supplied information concerning any scheduled or proposed increase in salary for the county attorney to the department of justice for inclusion in material submitted to the budget director under Title 17, chapter 7, part 1, the county is responsible for any increased salary. The state's share of the county attorney's salary is payable every 2 weeks.~~

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of county attorney, certify the election or appointment to the department of justice. The department shall notify the state treasurer of the salary of the county attorney. The state treasurer shall draw warrants for the county attorney salaries in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the

1 department of justice, and the department shall compute the salary due on the basis of the notification.
2 (3) The board may, under limitations and restrictions prescribed by law, fix the compensation of
3 all county officers not otherwise fixed by law and provide for the payment of the compensation and may,
4 for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as
5 provided in 7-4-2504(1), set their salaries at the prior fiscal year level."
6

7 **Section 2.** Section 7-4-2503, MCA, is amended to read:

8 **"7-4-2503. (Temporary) Salary schedule for certain county officers.** (1) (a) The salary paid to the
9 county treasurer, county clerk and recorder, clerk of the district court, county assessor, county
10 superintendent of schools, county sheriff, county surveyor in counties where county surveyors receive
11 salaries as provided in 7-4-2812, and county auditor in all counties where the office is authorized must
12 be established by the county governing body at no less than 80% of the annual base salary of:

13 (i) \$25,000 for counties of the first through fifth class added to the population increment of \$10
14 for each 100 persons or major fraction of 100 persons included in the county's population as determined
15 by the 1990 federal decennial census; or

16 (ii) \$18,000 for counties of the sixth and seventh class added to the population increment of \$10
17 for each 100 persons or major fraction of 100 persons in the county's population as determined by the
18 1990 federal decennial census.

19 (b) The annual base established by the county governing body in subsection (1) must be uniform
20 for all county officers referred to in subsection (1).

21 (2) (a) An elected county superintendent of schools must receive, in addition to the salary based
22 upon subsection (1), the sum of \$400 a year, except that an elected county superintendent of schools
23 who holds a master of arts degree or a master's degree in education, with an endorsement in school
24 administration, from a unit of the Montana university system or an equivalent institution may, at the
25 discretion of the county commissioners, receive, in addition to the salary based upon subsection (1), up
26 to \$2,000 a year.

27 (b) The county sheriff must receive, in addition to the salary based upon subsection (1), the sum
28 of \$2,000 a year.

29 (c) The county sheriff must receive a longevity payment amounting to 1% of the base salary set
30 forth in subsection (1) for each year of service with the sheriff's department, but years of service during

any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases. The additional salary amount provided for in this subsection may not be included in the base salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(3) (a) (i) In each county with a population in excess of 30,000, the county attorney must be a full-time official under 7-4-2704, and the base salary is \$50,000 a year 95% THE APPLICABLE PERCENTAGE of the salary established for district court judges by the department of administration as provided in 3-5-211. THE COUNTY ATTORNEY'S SALARY IS A PERCENTAGE OF THE DISTRICT COURT JUDGE'S SALARY AS FOLLOWS:

(A) 80% BEGINNING JULY 1, 2002, WITH 50% OF THAT AMOUNT PAID BY THE STATE;

(B) 85% BEGINNING JULY 1, 2003, WITH 60% OF THAT AMOUNT PAID BY THE STATE;

(C) 95% BEGINNING JULY 1, 2004, WITH 95% OF THAT AMOUNT PAID BY THE STATE.

(ii) In counties with a population of less than 30,000, the county attorney who is a part-time official for a county of the first, second, or third class is entitled to receive an annual base salary equal to 60% of the annual salary of a full-time county attorney. A county attorney who is a part-time official for a county of the fourth, fifth, sixth, or seventh class is entitled to receive an annual base salary equal to 50% of the annual base salary of a full-time county attorney.

(B) THE SALARY OF A COUNTY ATTORNEY HOLDING OFFICE ON JUNE 30, 2002, MAY NOT BE REDUCED UNDER SUBSECTION (3)(A), BUT FUTURE LONGEVITY INCREMENTS MAY NOT BE ADDED TO THE SALARY. IF A COUNTY ATTORNEY'S SALARY IS IN EXCESS OF THE AMOUNT PROVIDED FOR IN SUBSECTION (3)(A), THE COUNTY ATTORNEY MUST CONTINUE TO RECEIVE THAT SALARY AND THE STATE SHALL PAY THE STATE'S PERCENTAGE OF THAT SALARY FOR THE APPLICABLE FISCAL YEAR. THE COUNTY IS RESPONSIBLE FOR THE PAYMENT OF HEALTH INSURANCE BENEFITS FOR COUNTY ATTORNEYS.

~~(b)(c)~~ In those counties where the office of the county attorney has been established as a full-time position pursuant to 7-4-2706, the base salary of the county attorney is the same as the base salary established for full-time county attorneys in subsection (3)(a).

~~(c) On August 1 of each year, each county attorney is entitled to an increase in salary calculated by adding to the annual salary a percentage of up to 100% of the previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana-Missoula may in the future recognize as the successor to that index. However, the county commissioners may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set~~

~~the salary at the prior fiscal year level if that level is lower than the level required by this subsection (3)(c). The cost of living increment for each fiscal year must be added to all cost of living increments granted for previous years unless salaries were set for the fiscal year at the level of salaries received in the prior fiscal year. Unless restored pursuant to 7-4-2504(2), a cost of living increment that would have been received for the fiscal year, computed on the prior fiscal year, may not be added to previous increments.~~

~~(d)(c)(D)~~ (i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of \$1,000 on the anniversary date of employment as a deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of employment. After completing 6 years of service as deputy county attorney and for each year of service thereafter up to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual increase in salary of \$500.

~~(ii) A county with a full-time county attorney may pay its full-time county attorney the same longevity increase that is provided for under subsection (3)(d)(i) for deputy county attorneys.~~

~~(iii)(ii)~~ Unless longevity increases are restored pursuant to 7-4-2504(2), the years of service during a year in which the salary was set at the level of the salary of the prior fiscal year may not be included in a calculation of longevity increases.

(4) The latest federal decennial census statistics are the basis for computation of population increments under this section. During the intervening 9 years, the computation of population increments applicable on July 1 of each year is based on the most current calendar year's estimates of counties' populations compiled by the federal-state cooperative program for estimates of the university of Montana-Missoula bureau of business and economic research and the U.S. bureau of the census or other estimate that the bureau of business and economic research may certify. (Terminates July 1, 2001--sec. 4, Ch. 411, L. 1999.)

7-4-2503. (Effective July 1, 2001) Salary schedule for certain county officers. (1) (a) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, county sheriff, county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812, and county auditor in all counties where the office is authorized must be established by the county governing body at no less than 80% of the annual base salary of:

(i) \$25,000 for counties of the first through fifth class added to the population increment of \$10

1 for each 100 persons or major fraction of 100 persons included in the county's population as determined
2 by the 1990 federal decennial census; or

3 (ii) \$18,000 for counties of the sixth and seventh class added to the population increment of \$10
4 per 100 persons or major fraction of 100 persons in the county's population as determined by the 1990
5 federal decennial census.

6 (b) The annual base established by the county governing body in subsection (1) must be uniform
7 for all county officers referred to in subsection (1).

8 (2) (a) An elected county superintendent of schools must receive, in addition to the salary based
9 upon subsection (1), the sum of \$400 per year, except that an elected county superintendent of schools
10 who holds a master of arts degree or a master's degree in education, with an endorsement in school
11 administration, from a unit of the Montana university system or an equivalent institution may, at the
12 discretion of the county commissioners, receive, in addition to the salary based upon subsection (1), up
13 to \$2,000 per year.

14 (b) The county sheriff must receive, in addition to the salary based upon subsection (1), the sum
15 of \$2,000 per year.

16 (c) The county sheriff must receive a longevity payment amounting to 1% of the base salary set
17 forth in subsection (1) for each year of service with the sheriff's department, but years of service during
18 any year in which the salary was set at the level of the salary of the prior fiscal year may not be included
19 in any calculation of longevity increases. The additional salary amount provided for in this subsection may
20 not be included in the base salary for purposes of computing the compensation for undersheriffs and
21 deputy sheriffs as provided in 7-4-2508.

22 (3) (a) (i) In each county with a population in excess of 30,000, the county attorney must be a
23 full-time official under 7-4-2704, and the salary is ~~\$50,000 per year~~ 95% THE APPLICABLE PERCENTAGE OF
24 the salary established for district court judges by the department of administration as provided in 3-5-211.

25 THE COUNTY ATTORNEY'S SALARY IS A PERCENTAGE OF THE DISTRICT COURT JUDGE'S SALARY AS FOLLOWS:

26 (A) 80% BEGINNING JULY 1, 2002, WITH 50% OF THAT AMOUNT PAID BY THE STATE;

27 (B) 85% BEGINNING JULY 1, 2003, WITH 60% OF THAT AMOUNT PAID BY THE STATE;

28 (C) 95% BEGINNING JULY 1, 2004, WITH 95% OF THAT AMOUNT PAID BY THE STATE.

29 (ii) In counties with a population of less than 30,000, the county attorney who is a part-time
30 official for a county of the first, second, or third class is entitled to receive an annual salary equal to 60%

1 of the annual salary of a full-time county attorney. A county attorney who is a part-time official for a
2 county of the fourth, fifth, sixth, or seventh class is entitled to receive an annual salary equal to 50% of
3 the annual salary of a full-time county attorney.

4 (B) THE SALARY OF A COUNTY ATTORNEY HOLDING OFFICE ON JUNE 30, 2002, MAY NOT BE REDUCED UNDER
5 SUBSECTION (3)(A), BUT FUTURE LONGEVITY INCREMENTS MAY NOT BE ADDED TO THE SALARY. IF A COUNTY ATTORNEY'S
6 SALARY IS IN EXCESS OF THE AMOUNT PROVIDED FOR IN SUBSECTION (3)(A), THE COUNTY ATTORNEY MUST CONTINUE TO
7 RECEIVE THAT SALARY AND THE STATE SHALL PAY THE STATE'S PERCENTAGE OF THAT SALARY FOR THE APPLICABLE FISCAL
8 YEAR. THE COUNTY IS RESPONSIBLE FOR THE PAYMENT OF HEALTH INSURANCE BENEFITS FOR COUNTY ATTORNEYS.

9 ~~(b)~~(c) In those counties where the office of the county attorney has been established as a full-time
10 position pursuant to 7-4-2706, the salary of the county attorney is the same as that established for
11 full-time county attorneys in subsection (3)(a).

12 ~~(c) On August 1 of each year, each county attorney is entitled to an increase in salary calculated~~
13 ~~by adding to the annual salary a percentage of up to 100% of the previous calendar year's consumer price~~
14 ~~index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the~~
15 ~~bureau of business and economic research of the university of Montana-Missoula may in the future~~
16 ~~recognize as the successor to that index. However, the county commissioners may, for all or the remainder~~
17 ~~of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set~~
18 ~~the salary at the prior fiscal year level if that level is lower than the level required by this subsection (3)(c).~~
19 ~~The cost-of-living increment for each fiscal year must be added to all cost-of-living increments granted for~~
20 ~~previous years unless salaries were set for the fiscal year at the level of salaries received in the prior fiscal~~
21 ~~year. Unless restored pursuant to 7-4-2504(2), a cost-of-living increment that would have been received~~
22 ~~for the fiscal year, computed on the prior fiscal year, may not be added to previous increments.~~

23 ~~(d)~~(e)(d) (i) After completing 4 years of service as deputy county attorney, each deputy county
24 attorney is entitled to an increase in salary of \$1,000 on the anniversary date of employment as deputy
25 county attorney. After completing 5 years of service as deputy county attorney, each deputy county
26 attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of employment.
27 After completing 6 years of service as deputy county attorney and for each year of service thereafter up
28 to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual
29 increase in salary of \$500.

30 (ii) The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be

1 included in the calculation of the longevity increase, but, unless longevity increases are restored pursuant
2 to 7-4-2504(2), the years of service during a year in which the salary was set at the level of the salary
3 of the prior fiscal year may not be included in a calculation of longevity increases.

4 (4) The latest federal decennial census statistics are the basis for computation of population
5 increments under this section. During the intervening 9 years, the computation of population increments
6 applicable on July 1 of each year is based on the most current calendar year's estimates of counties'
7 populations compiled by the federal-state cooperative program for estimates of the university of
8 Montana-Missoula bureau of business and economic research and the U.S. bureau of the census or other
9 estimate that the bureau of business and economic research may certify."

10
11 **Section 3.** Section 7-4-2504, MCA, is amended to read:

12 **"7-4-2504. Salaries to be fixed by resolution -- cost-of-living increments.** (1) The county governing
13 body shall by resolution on or before August 1 of each year adjust and uniformly fix the salaries of the
14 county treasurer, county clerk, county assessor, county school superintendent, county sheriff, clerk of
15 district court, county auditor (if there is one), and county surveyor (if the surveyor receives a salary). The
16 salaries fixed may be no less than 80% of the annual base salary provided for in 7-4-2503(1) plus a
17 cost-of-living increment based on a percentage of up to 100% of the previous calendar year's consumer
18 price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that
19 the bureau of business and economic research of the university of Montana-Missoula may in the future
20 recognize as the successor to that index. The county governing body may, however, for all or the
21 remainder of each fiscal year, in conjunction with setting salaries for the same action on the salaries of
22 justices of the peace (if applicable), the county governing body, ~~the county attorney,~~ and the coroner, set
23 the salary at the prior fiscal year level if that level is lower than the level required by this subsection. The
24 cost-of-living increment for each fiscal year must be added to all cost-of-living increments granted for
25 previous years unless salaries were set for the fiscal year at the level of salaries received in the prior fiscal
26 year. In such a case, the cost-of-living increment that would have been received for the fiscal year,
27 computed on the prior fiscal year, may not be added to previous increments.

28 (2) The county governing body may, in any subsequent fiscal year, restore for 1 or more years
29 the annual cost-of-living increments withheld pursuant to subsection (1). If cost-of-living increments are
30 restored, the longevity increases provided for sheriffs in 7-4-2503, for deputy county attorneys in

1 7-4-2503(3)(a)(i)(c)(ii)(D)(i), and for undersheriffs and deputy sheriffs in 7-4-2510 must also be restored
2 for the years for which the cost-of-living increment was restored.

3 (3) The county governing body shall by resolution, prior to August 1 of each year, establish the
4 salary of the coroner and may, for all or the remainder of each fiscal year, in conjunction with setting
5 salaries for other officers as provided in subsection (1), set the salary at the prior fiscal year level. The
6 salary must be in effect on the first day of each ensuing fiscal year."

7

8 ~~Section 4. Section 7-4-2505, MCA, is amended to read:~~

9 ~~"7-4-2505. Amount of compensation for deputies and assistants. (1) Subject to subsection (2),~~
10 ~~the boards of county commissioners in the several counties in the state shall fix the compensation allowed~~
11 ~~any deputy or assistant of the following officers:~~

12 ~~(a) clerk and recorder;~~

13 ~~(b) clerk of the district court;~~

14 ~~(c) treasurer;~~

15 ~~(d) county attorney;~~

16 ~~(e) auditor.~~

17 ~~(2) (a) The salary of a deputy or an assistant listed in subsection (1), other than a deputy county~~
18 ~~attorney, may not be more than 90% of the salary of the officer under whom the deputy or assistant is~~
19 ~~serving. The salary of a deputy county attorney, including longevity payments provided in~~
20 ~~7-4-2503(3)(d)(3)(c), may not exceed the salary of the county attorney under whom the deputy is serving.~~

21 ~~(b) If a deputy or assistant is employed for a period of less than 1 year, the compensation of the~~
22 ~~deputy or assistant must be for the time employed, provided the rate of compensation may not be in~~
23 ~~excess of the rates provided by law for similar deputies and assistants."~~

24

25 SECTION 4. SECTION 7-4-2706, MCA, IS AMENDED TO READ:

26 **"7-4-2706. County attorney to be full or part time -- resolution -- salary.** (1) In any county with
27 a population of less than 30,000, the county commissioners may, upon the consent of the county attorney
28 and the approval of the attorney general, on July 1 of any year by resolution establish the office of county
29 attorney as a full-time position subject to the provisions of 7-4-2701 and 7-4-2704. The salary for this
30 position is the salary provided by 7-4-2503 for the office of county attorney in a county with a population

1 in excess of 30,000.

2 (2) In any county in which the office of county attorney has been established as a full-time
3 position under subsection (1), the county commissioners may, by resolution and upon the consent of the
4 county attorney, establish the office as a part-time position on July 1 of any year."

5

6 **Section 5.** Section 7-6-2426, MCA, is amended to read:

7 **"7-6-2426. Enumeration of county charges.** The following are county charges:

8 (1) charges incurred against the county by virtue of any provision of this title;

9 (2) ~~one-half of the salary of the county attorney and~~ THE APPROPRIATE PERCENTAGE OF THE SALARY OF
10 THE COUNTY ATTORNEY AND all expenses necessarily incurred by ~~him~~ the county attorney in criminal cases
11 arising within the county;

12 (3) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs
13 and the compensation allowed by law to constables for executing process on persons charged with
14 criminal offenses;

15 (4) the ~~board~~ feeding of prisoners confined in jail;

16 (5) the accounts of the coroner of the county for ~~such~~ services ~~as~~ that are provided by law;

17 (6) all charges and accounts for services rendered by any justice of the peace for services in the
18 examination or trial of ~~persons~~ a person charged with a crime as provided for by law;

19 (7) the necessary expenses incurred in the support of county hospitals and poorfarms and in the
20 support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;

21 (8) the contingent expenses necessarily incurred for the use and benefit of the county;

22 (9) every other ~~sum~~ amount directed by law to be raised for any county purpose under the
23 direction of the board of county commissioners or declared to be a county charge."

24

25 ~~Section 6.~~ Section 46-18-236, MCA, is amended to read:

26 ~~"46-18-236. (Temporary) Imposition of charge upon conviction or forfeiture -- administration. (1)~~

27 ~~Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a~~
28 ~~person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail~~
29 ~~a charge that is in addition to other taxable court costs, fees, or fines, as follows:~~

30 ~~(a) \$15 for each misdemeanor charge;~~

- 1 ~~—— (b) the greater of \$20 or 10% of the fine levied for each felony charge; and~~
2 ~~—— (c) an additional \$10 for each misdemeanor and felony charge under Title 45, 61-8-401, or~~
3 ~~61-8-406.~~
- 4 ~~—— (2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able~~
5 ~~to pay the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive~~
6 ~~payment of the charge imposed by this section.~~
- 7 ~~—— (3) The charges imposed by this section are not fines and must be imposed in addition to any fine~~
8 ~~and may not be used in determining the jurisdiction of any court.~~
- 9 ~~—— (4) When the payment of a fine is to be made in installments over a period of time, the charges~~
10 ~~imposed by this section must be collected from the first payment made and each subsequent payment as~~
11 ~~necessary if the first payment is not sufficient to cover the charges.~~
- 12 ~~—— (5) The charges collected under subsection (1), except those collected by a justice's court, must~~
13 ~~be deposited with the appropriate local government finance officer or treasurer. If a city municipal court~~
14 ~~or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must~~
15 ~~be deposited with the city or town finance officer or treasurer. If a district court is the court of original~~
16 ~~jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer~~
17 ~~or treasurer. If the court of original jurisdiction is a court within a consolidated city-county government~~
18 ~~within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be deposited~~
19 ~~with the finance officer or treasurer of the consolidated government.~~
- 20 ~~—— (6) (a) A city or town finance officer or treasurer may retain the charges collected under~~
21 ~~subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for~~
22 ~~the payment of salaries of the city or town attorney and deputies.~~
- 23 ~~—— (b) Each county finance officer or treasurer may retain the charges collected under subsections~~
24 ~~(1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that~~
25 ~~county. The county finance officer or treasurer shall use the money for the payment of salaries of its~~
26 ~~county attorney and deputy county attorneys and for the payment of other salaries in the office of the~~
27 ~~county attorney, and any funds not needed for those salaries may be used for the payment of any other~~
28 ~~county salaries.~~
- 29 ~~—— (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or~~
30 ~~treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim~~

~~and witness advocate program that provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town.~~

~~———— (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each \$10 charge collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to allocation under 46-18-251.~~

~~———— (c) If the county, city, or town does not operate or use a victim and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance account established in 53-9-109, except as provided in subsection (7)(b). (Terminates July 1, 2001--sec. 4, Ch. 411, L. 1999.)~~

~~———— **46-18-236. (Effective July 1, 2001) Imposition of charge upon conviction or forfeiture -- administration.** (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a defendant upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:~~

~~———— (a) \$15 for each misdemeanor charge;~~

~~———— (b) the greater of \$20 or 10% of the fine levied for each felony charge; and~~

~~———— (c) an additional \$10 for each misdemeanor and felony charge under Title 45, 61-8-401, or 61-8-406.~~

~~———— (2) If a convicting court determines under 46-18-231 and 46-18-232 that the defendant is not able to pay the fine and costs or that the defendant is unable to pay within a reasonable time, the court shall waive payment of the charge imposed by this section.~~

~~———— (3) The charges imposed by this section are not fines and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court.~~

~~———— (4) When the payment of a fine is to be made in installments over a period of time, the charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the charges.~~

~~———— (5) The charges collected under subsection (1), except those collected by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court is the court of original~~

~~jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer or treasurer. If the court of original jurisdiction is a court within a consolidated city-county government within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be deposited with the finance officer or treasurer of the consolidated government.~~

~~—— (6) (a) A city or town finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for the payment of salaries of the city or town attorney and deputies.~~

~~—— (b) Each county finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that county. The county finance officer or treasurer shall use the money for the payment of salaries of its deputy county attorneys and for the payment of other salaries in the office of the county attorney, and any funds not needed for those salaries may be used for the payment of any other county salaries.~~

~~—— (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim and witness advocate program that provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town.~~

~~—— (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each \$10 charge collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to allocation under 46-18-251.~~

~~—— (c) If the county, city, or town does not operate or use a victim and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance account established in 53-9-109, except as provided in subsection (7)(b)."~~

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2001.

- END -